

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONYA MARQUEZ, et al.,

Plaintiffs,

v.

TRUIST BANK, et al.,

Defendants.

Case No. 1:22-cv-00441-JLT-EPG

ORDER DISCHARGING ORDER TO SHOW
CAUSE, DIRECTING DEFENDANT TRUIST
BANK TO SUBMIT FILING REGARDING
STIPULATION OF DISMISAL

(ECF Nos. 20, 21)

Plaintiffs Tonya Marquez and Steve Marquez filed this action on April 15, 2022, alleging violations of the Fair Credit Reporting Act. (ECF No. 1). Defendant Equifax Information Services, LLC, filed its answer on June 6, 2022. (ECF No. 14).

On July 11, 2022, Plaintiffs filed a notice of settlement as to Defendant Equifax only. (ECF No. 16). After Plaintiffs and Defendant Equifax failed to respond to two orders to file an appropriate dismissal document, this Court issued an order on August 23, 2022, directing them to show cause why sanctions should not issue, or to file a stipulation of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), by no later than September 6, 2022. (ECF No. 20).

On August 24, 2022, Plaintiffs filed a stipulation of dismissal as to Defendant Equifax. (ECF No. 21). Given this filing, the Court will discharge the order to show cause. However, because Rule 41(a)(1)(A)(ii) requires a stipulation of dismissal to be “signed by all parties who have appeared,” and only Plaintiffs and Defendant Equifax have signed the stipulation, the Court will require Defendant Truist Bank (who has appeared) to submit a filing approving or opposing the stipulation of dismissal. *See Thacker v. AT&T Corp.*, No. 2:20-CV-00255-KJM-CKD PS,

2021 WL 1784873, at *1 (E.D. Cal. May 5, 2021), *report and recommendation adopted*, 2021 WL 4168533 (E.D. Cal. Sept. 14, 2021) (noting that court was “unaware of any case waiving the requirement that the stipulation . . . must be made by all parties who have appeared” and that “[t]he requirement to obtain all parties’ consent to voluntarily dismiss (without a court order) is intended to ensure that a voluntary dismissal of a party at later stages of the litigation does not cause plain legal prejudice to the party to be dismissed or to the remaining defendant(s)”).

Accordingly, IT IS ORDERED as follows:

1. The Court’s August 23, 2022 order to show cause (ECF No. 20) is discharged.
2. By no later than September 8, 2022, Defendant Truist Bank shall file a signed document reflecting its approval of the stipulation of dismissal (ECF No. 21) or file a response opposing the stipulation of dismissal. Alternatively, the parties may file a stipulation of dismissal signed by all parties who have appeared in this action in compliance with Rule 41(a)(1)(A)(ii).

IT IS SO ORDERED.

Dated: August 25, 2022

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE